

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

THE REGENTS OF THE UNIVERSITY OF
CALIFORNIA and JANET NAPOLITANO,
in her official capacity as President of the
University of California,

Plaintiffs,

v.

UNITED STATES DEPARTMENT OF
HOMELAND SECURITY and KIRSTJEN
NIELSEN, in her official capacity as Secretary
of the Department of Homeland Security,

Defendants.

No. C 17-05211 WHA
No. C 17-05235 WHA
No. C 17-05329 WHA
No. C 17-05380 WHA
No. C 17-05813 WHA

**FOLLOW-UP REQUEST
RE COMPLETION OF
ADMINISTRATIVE
RECORD AND DISCOVERY,
AND VACATING CERTAIN
DATES**

Now that the government's threshold jurisdiction arguments have been ruled upon and jurisdiction has been sustained, the Court is of the view that the order to complete the administrative record should be re-issued, then certified for appellate review in the same time frame as the other issues certified for interlocutory appeal. Before doing so, however, counsel are invited to submit briefs, as suggested by the court of appeals, as to whether some narrowing of the order is necessary or appropriate.

With respect to privilege issues, the Court now makes plain that, going forward, the government shall have the opportunity in the district court to submit privilege logs and sworn records as to each and every document it wishes to withhold as privileged, whereupon the district court shall review the document *in camera* and allow *ex parte* argument by the

1 government if requested. Earlier, with respect to allegedly “deliberative” documents, the
2 government only requested an *in camera* review of the withheld documents themselves, which
3 the district judge performed and then ruled upon. If, however, counsel wish to revisit that set of
4 84 documents with a more extended procedure, the district court will consider a redo (as to all
5 84). In your submissions, counsel shall please suggest ways to make this vetting process fair to
6 both sides.

7 Please also submit your views on the extent to which and when discovery should
8 resume.


9 Meanwhile, of course, the government shall preserve all materials subject to the prior
10 order (as well as any materials relevant to potential discovery herein).

11 These submissions are due by **NOON ON JANUARY 19, 2018.**

12 Due to delays in the case previously explained, the pretrial conference and trial
13 scheduled in this matter on January 24, 2018 and February 5, 2018, respectively, are hereby
14 **VACATED.**

15
16 **IT IS SO ORDERED.**

17
18 Dated: January 12, 2018.



WILLIAM ALSUP
UNITED STATES DISTRICT JUDGE